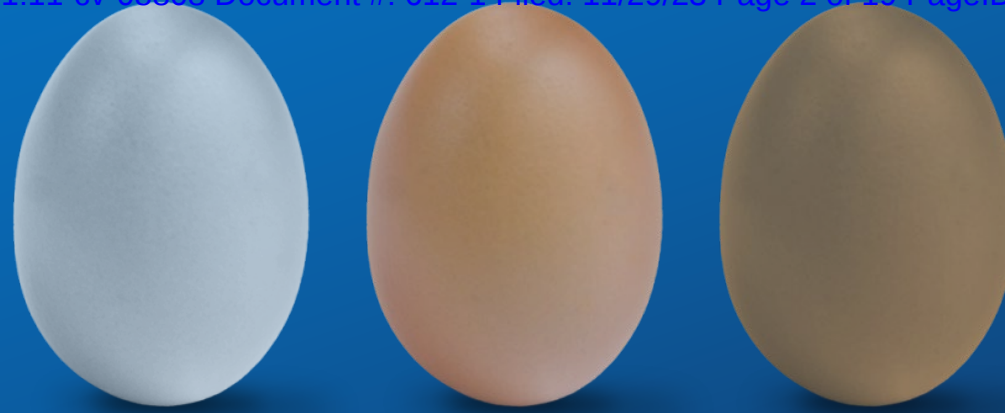


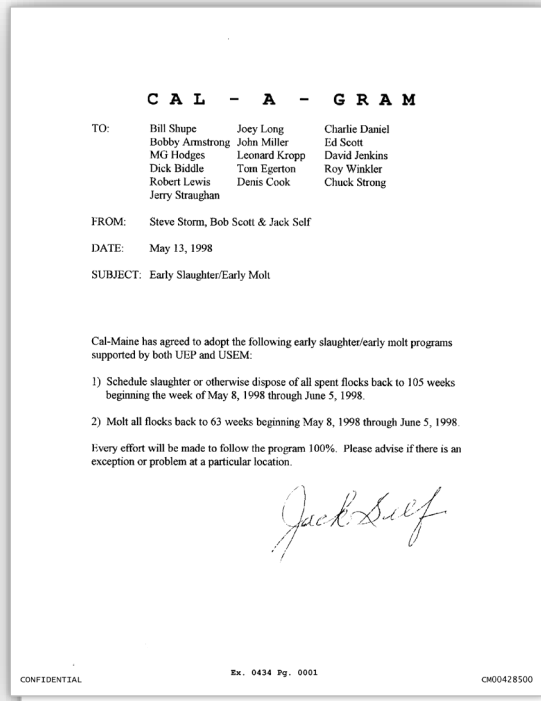
# **ATTACHMENT A**



# Kraft Foods Global, Inc. et al. v. United Egg Producers, Inc. et al.

---

# May 13, 1998 – “Cal-A-Gram”



Cal-Maine has agreed to adopt the following early slaughter/early molt programs supported by both UEP and USEM:

- 1) Schedule slaughter or otherwise dispose of all spent flocks back to 105 weeks beginning the week of May 8, 1998 through June 5, 1998.
- 2) Molt all flocks back to 63 weeks beginning May 8, 1998 through June 5, 1998.

Every effort will be made to follow the program 100%. Please advise if there is an exception or problem at a particular location.

# UEP Letter from Donald Bell to Gene Gregory

July 2, 1999

07/02/99 02:32 PM

## Estimated Break-even Beginning Hen Inventory for 1999 - 2000 for Break-even or Better Situation

Break-even conditions are difficult to predict. Break-even rarely occurs during the April to August period even though hen numbers are at their lowest. Correction in the size of the nation's layer flock can be attained by one of several means.

1. A sensible industry-wide growth policy must be adhered to. This requires industry-wide commitment to a "reasonable" growth rate of no more than 3 million hens per year.
2. Extra birds must be removed from the nation's flock permanently. An early molt is only a stop-gap way of correcting the problem.

Egg producers must be encouraged to take a hard look at the profitability of maintaining each of their older flocks during the period of extremely low egg prices. Flocks should be sold early if they have no chance of covering their feed costs during the foreseeable future.

3. A 3-3% reduction in chick purchases would help to lower the future flock size, but the results would be slow.
4. An industry-wide policy of a minimum floor space allowance would result in a more ideal national flock size. It is currently estimated that 15-20% of the nation's birds are housed at less than 48 square inches. If 48 square inches were adopted as the minimum space allowance, millions of extra birds would be eliminated.

Break-even is dependent upon feed prices and the size and potential disposition of the 1999 crop is unknown at this time.

Egg needs are based upon the size of the human population and their demand for eggs. The population can be estimated to increase at the rate of about 1% per year. The demand for eggs is dependent upon the good and bad publicity eggs receive. To maintain the same per capita consumption and to provide eggs for the increase in human we require about 2.5 to 3.0 million additional hens each year.

I personally believe that net income for the industry would be higher if layer population could be limited to 260 million hens with a yearly increase of no more than 3.0 million. The current (1999) beginning monthly forecast is for 264.2 million hens. If this is correct, then I would suggest a target for the year 2000 of 263.0 (260.0 + 3.0) million hens. We are currently projecting 271.8 million for monthly beginning counts for the year 2000. If correction does not occur, we are heading for an 8.8 million hen surplus in the year 2000. This is why our profitability projection for 2000 is so poor.

### Target Beginning of the month Hen Numbers:

1999	260
2000	263
2001	266
2002	269

Between April 1997 and 1999, the US gained 13.9 million layers. Human population grew by an estimated 5.0 million. Two-thirds of these extra layers were in Ohio and Iowa. The growth of individual companies more than offsets the closure of other companies.

Prepared by Don Bell, Poultry Specialist, University of California

Ex. 0328 Pg. 0011

BELL007708



Don Bell



Gene Gregory



2. **Extra birds must be removed** from the nation's flock permanently. An early molt is only a stop-gap way of correcting the problem.

\* \* \*

4. An **industry-wide policy of a minimum floor space** allowance would result in a more ideal national flock size. It is currently estimated that 15-20% of the nation's birds are housed at less than 48 square inches. If 48 square inches were adopted as minimum space allowance, **millions of extra birds would be eliminated.**

# UEP's Idea to Reduce Henhouse Density

**SPECIAL CALLED  
UEP MARKETING CONFERENCE CALL  
September 24, 2001**

Marketing Committee Chairman, Dolph Baker called the meeting to order at 2:00 PM with the following being present:

Paul Bhan	Andy Bowers	Kurt Lausacker
Larry Seger	Vincent Reina	Bruce Andrews
Monty Henderson	Jerry Kil	Dave Staples
Doug Wicker	Dave Thompson	Joe Maust
John Hammond	Michael Mills	Bob Krouse
Bruce Duyma	John Dangler	Ed Herschberger
Derek Yancey	Allen Becker	Lamar Calhoun
Jacques Klempf	Jim Dean	Joe Fortin
Paul Osborne	Tom Hartzfeld Jr.	Dick Fasio
Kurt Kreher	Willard Maust	Batch DeVries
Reg Koddie	Joe Arias	Gary West
Ken Klippen	Jim White	Steve Harberuck
Dick Patinos	Dolph Baker	Ken Looper
Fred Adams	Bob Gornichee	Jim Brock
Scott Horton	Bern Diekema	Cal Schipper
Russ Dugas	Gary Dwyer	Dave Offerman
Bob Hallberg	Ron Traux	David Goldenberg
Arnie Richli	Amon Baer	Lisa Timmerman
Scott Schneider	Kevin Boerboom	Linda Noickard
Irving Isaacson	Al Pope	Gene Gregory

Baker noted that the UEP office had sent a package of material to all members detailing the problem with over supply and the purpose of the call was to discuss this material and the problem in hopes that ideas might come forward to balance supply with the market demand.

Baker presented the USDA statistics of hen inventory and pullet chick hatch. He further explained that the projections for year-ending hen inventory of 284.8 million hens were 11.2 million larger than at the end of 2000. He presented further statistics showing the effects of a 2.5% hatch reduction in 2002 and a 4.8% hatch reduction in 2002. With both hatch reductions examples, we would still recognize an increased layer flock inventory.

Ken Looper explained the egg price effect of increased or decreased hen inventory during high and low demand periods. He pointed out that the industry has never before had an increase of this magnitude.

Baker announced a "commitment to change" that was endorsed by the members of Region #5. The commitment included options for leaving houses vacant or reducing the flock size by 5% as well as reducing the chick hatch by delaying the hatch or reducing hatch by 15%.

**SPECIAL CALLED  
UEP MARKETING CONFERENCE CALL  
September 24, 2001**

\* \* \*

**Gene Gregory said that the UEP staff had been working on an idea that would encourage members to take one bird out of each cage until a total of 5% of the house capacity had been reached.**



# UEP in 2000: Cage Space Increases Will Restrict Production

May 15, 2000



## UEP Animal Welfare Committee Meeting, May 15, 2000

### A. Cage Space Allowance Considerations

1. Over the last 20 years (1980 to 1999), the greatest amount of egg income minus feed and pullet costs were derived from the least space allowance in small cages, but the opposite in larger cages.

Annual Average Egg Income Minus Feed and Pullet Cost Per Cage - 1980 to 1999

16" x 20" Cage			24" x 20" cage		
5/cg	6/cg	7/cg	8/cg	9/cg	10/cg
64 in <sup>2</sup> /bird	53.3 in <sup>2</sup> /bird	45.7 in <sup>2</sup> /bird	60 in <sup>2</sup> /bird	53.3 in <sup>2</sup> /bird	48 in <sup>2</sup> /bird
\$17.83	\$18.85	\$18.99	\$28.63	\$28.38	\$27.24

2. Voluntary increases in space allowances by the industry would reduce returns on investment for those participating companies compared to those not participating.
3. Increasing space allowances for the industry can only be justified by individual egg producers if most or all producers participated.
4. Increasing space allowances can only come about by legislation or an incentive program that would offset the advantages of the lower space allowances.
5. Increasing space allowances would have two major effects:
  - a) A positioning of the industry as a pro-welfare step. This could avoid space allowances being leveled by the government or a third party.
  - b) An increase in space allowance would inevitably reduce the layer population and thereby reduce the surplus production problems affecting the industry over the past 20 years.

1

Ex. 0384 Pg. 0001  
CONFIDENTIAL

UE0215485

## UEP Animal Welfare Committee Meeting, May 15, 2000

\* \* \*

3. Increasing space allowances for the industry can only be justified by individual egg producers if most or all producers participated.

\* \* \*

5. Increasing space allowances would have two major effects:

\* \* \*

- b). An increase in space allowance would inevitably reduce the layer population and thereby reduce the surplus production problems affecting the industry over the past 20 years.

# UEP in 2002: Put Money in Your Pocket!!!

## **“What Better Time to Reduce Cage Density and**

## **Put Money In Your Pocket!!!**

Commentary – Al Pope



Give your animal welfare program a jump start by reducing the cage density to meet UEP's Industry Animal Husbandry Guidelines. This action may be a worthwhile option to consider in addition to the Hatch & Molting Plan as recommend by the UEP Marketing Committee.

The target date of October 1 for reducing the nations flock size by 5% could be achieved if this option best suits your facilities and marketing plan. If at least 50% of the industry took thee actions Producers could make a dollar to two a bird in 2002 instead of the projected losses.....substantial losses at that!!!

A handwritten signature in black ink, appearing to read "Al Pope".


Ex. 0223 Pg. 0001  
CONFIDENTIAL

UE0067353



# UEP Announces First 100 Companies

April 8, 2002



**United Voices**  
United Egg Producers  
Gene Gregory - Editor  
April 8, 2002

**LARGE SIGN UP FOR "CERTIFIED COMPANY" STATUS**

As of April 1<sup>st</sup>, 100 companies representing the ownership of approximately 155 million layers had made a commitment to implement UEP's Animal Husbandry Guidelines. The list of companies in the order by which their application was received is shown below:

1. Wilson Farms	36. Valley Fresh Foods	71. J Wilmar Jensen
2. Midwest Poultry Service	37. North Alabama Egg Co.	72. Lohman's Egg Serv.
3. Cal-Maine Foods	38. Red Bird Egg Farm	73. AAA Egg Farms
4. Oregional Bros.	39. Olson Farms	74. Tampa Farm Serv.
5. HSE Newberry	40. Herbrook's Poultry Ranch	75. Pearl Valley Eggs
6. Mahard Egg Farms	41. Schipper Poultry	76. Weaver Bros.
7. Lumber City Egg Markets	42. Okidell Egg Farms	77. Don Dale Poultry
8. Glenwood Foods	43. Active Feed Co.	78. Germantown Egg
9. Braswell Egg Co.	44. Delta Egg Farm	79. H & K Farms
10. Simpson's Eggs	45. Sunset Foods of IA	80. P & R Farms
11. Doyler Egg Farm	46. Grand Mesa Eggs	81. Crystal Valley Farms
12. United Egg Marketing Corp.	47. Moark Productions	82. Hillside of Pa.
13. Crystal Farms	48. Gempke Enterprises	83. Rolling Hills Egg
14. Kreber's Poultry Farm	49. Freitas Fresh Eggs	84. National Food Corp.
15. Zepher Egg Co.	50. Karl Jensen & Sons	85. James Farm
16. Kolloff Egg Farm	51. Gervase Farms	86. Wabash Valley Prod.
17. Southern New England Eggs	52. Wilife Farms	87. Schuringa Poultry
18. The Egg & I Farm	53. Yankee Farms	88. Williams Egg Farm
19. HSE America	54. Sur's Chicken Farm	89. S & R Egg Farm
20. Wiggins	55. Garber Poultry Farm	90. Morill's Egg Farm
21. R. W. Vander	56. Baer Bros.	91. SKS Enterprises
22. Radio Bros.	57. CFMG, Inc.	92. Randy Nelson Venture
23. LaVelle Egg Farms	58. Riverwood, Inc.	93. Hange Egg Co.
24. Elmer King Farm	59. Siebers Farms	94. Sunrise Acres
25. Sperry Farms	60. C & K Egg Co.	95. George's
26. Creekwood Farms	61. Joel Baer, Inc.	96. Ft. Recovery Equity
27. Edgewood Farms	62. Joel Baer, Inc.	97. Rindler Poultry
28. Dynes Farms	63. Riggs Poultry	98. Rose Acres Farms
29. Morning Fresh Farms	64. Fazio Egg Farm	99. Merle Poultry Farm
30. Spurbow Companies	65. Hertefeld Poultry Farm	100. Hillside of Florida
31. J. S. West Milling	66. Green Valley Poultry	
32. Maxin Production CO	67. Triple A Farms	
33. Norco Ranch	68. Albridge Poultry Farm	
34. McNaul Enterprises	69. Egg Innovations	
35. Sunrise Farms of CA	70. Zoot Poultry	

April 8, 2002

Page 1

Ex. 0637 Pg. 0001

UEP15806

## ***LARGE SIGN UP FOR "CERTIFIED COMPANY" STATUS***

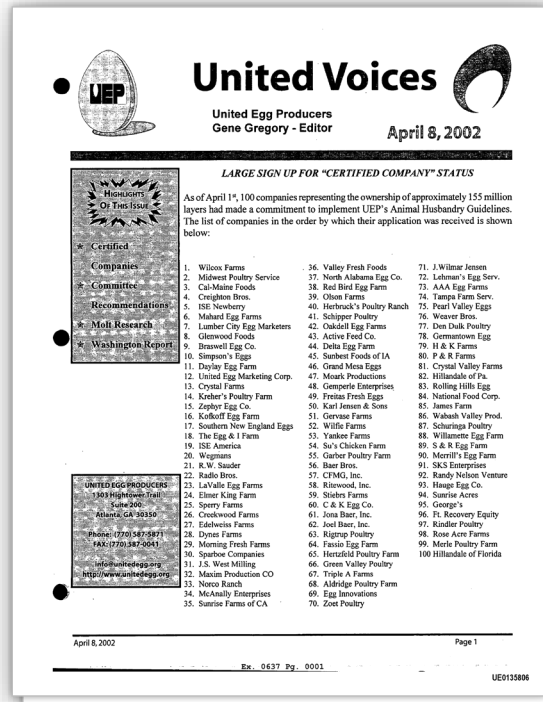
As of April 1<sup>st</sup>, 100 companies representing the ownership of approximately 155 million layers had made a commitment to implement UEP's Animal Husbandry Guidelines. The list of companies in the order by which their application was received is shown below:





# UEP Announces First 100 Companies

April 8, 2002



## 3. Cal-Maine Foods

1. Wilcox Farms
2. Midwest Poultry Service
3. Cal-Maine Foods

7. Lumber City Egg Marketers
8. Glenwood Foods
9. Braswell Egg Co.
10. Simpson's Eggs
11. Daylay Egg Farm
12. United Egg Marketing Corp.
13. Crystal Farms
14. Kreher's Poul
15. Zephyr Egg Co

16. Kofkoff Egg Farm
17. Southern New England Eggs
18. The Egg & I Farm
19. ISE America
20. Wegmans
21. R.W. Sauder
22. Radlo Bros.
23. LaValle Egg Farms
24. Elmer King Farm
25. Sperry Farms
26. Creekwood Farms
27. Edelweiss Farms
28. Dynes Farms
29. Morning Fresh Farms
30. Sparboe Companies
31. J.S. West Milling
32. Maxim Production CO
33. Norco Ranch
34. McAnally Enterprises
35. Sunrise Farms of CA

36. Valley Fresh Foods
37. North Alabama Egg Co.
38. Red Bird Egg Farm
39. Olson Farms
40. Herbruck's Poultry Ranch
41. Schipper Poultry
42. Oakdell Egg Farms
43. Active Feed Co.
44. Delta Egg Farm
45. Sunbest Foods of IA
46. Grand Mesa Eggs
47. Moark Productions

## 47. Moark Productions

51. Gervase Farms
52. Wilfie Farms
53. Yankee Farms
54. Su's Chicken Farm
55. Garber Poultry Farm
56. Baer Bros.
57. CFMG, Inc.
58. Ritewood, Inc.
59. Stiebrs Farms
60. C & K Egg Co.
61. Jona Baer, Inc.
62. Joel Baer, Inc.
63. Rigtrup Poultry
64. Fassio Egg Farm
65. Hertzfeld Poultry Farm
66. Green Valley Poultry
67. Triple A Farms
68. Aldridge Poultry Farm
69. Egg Innovations
70. Zoet Poultry

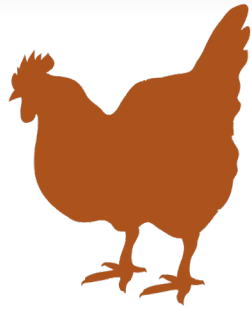
71. J.Wilmar Jensen
72. Lehman's Egg Serv.
73. AAA Egg Farms
74. Tampa Farm Serv.
75. Pearl Valley Eggs
76. Weaver Bros.
77. Den Dulk Poultry
78. Germantown Egg
79. H & K Farms
80. P & R Farms
81. Crystal Valley Farms
82. Hillandale of Pa.
83. Rolling Hills Egg
84. National Food Corp.
85. James Farm
86. Wabash Valley Prod.

## 86. Wabash Valley Prod.

90. Merrill's Egg Farm
91. SKS Enterprises
92. Randy Nelson Venture
93. Hauge Egg Co.
94. Sunrise Acres
95. George's
96. Ft. Recovery Equity
97. Rindler Poultry
98. Rose Acre Farms
- 99.
- 100.

## 98. Rose Acre Farms

# Number of Laying Hens in Certified Program (2002)



= 1 Million Hens



**March 11**  
**62 Million**



**March 25**  
**100 Million**



**April 5**  
**155 Million**

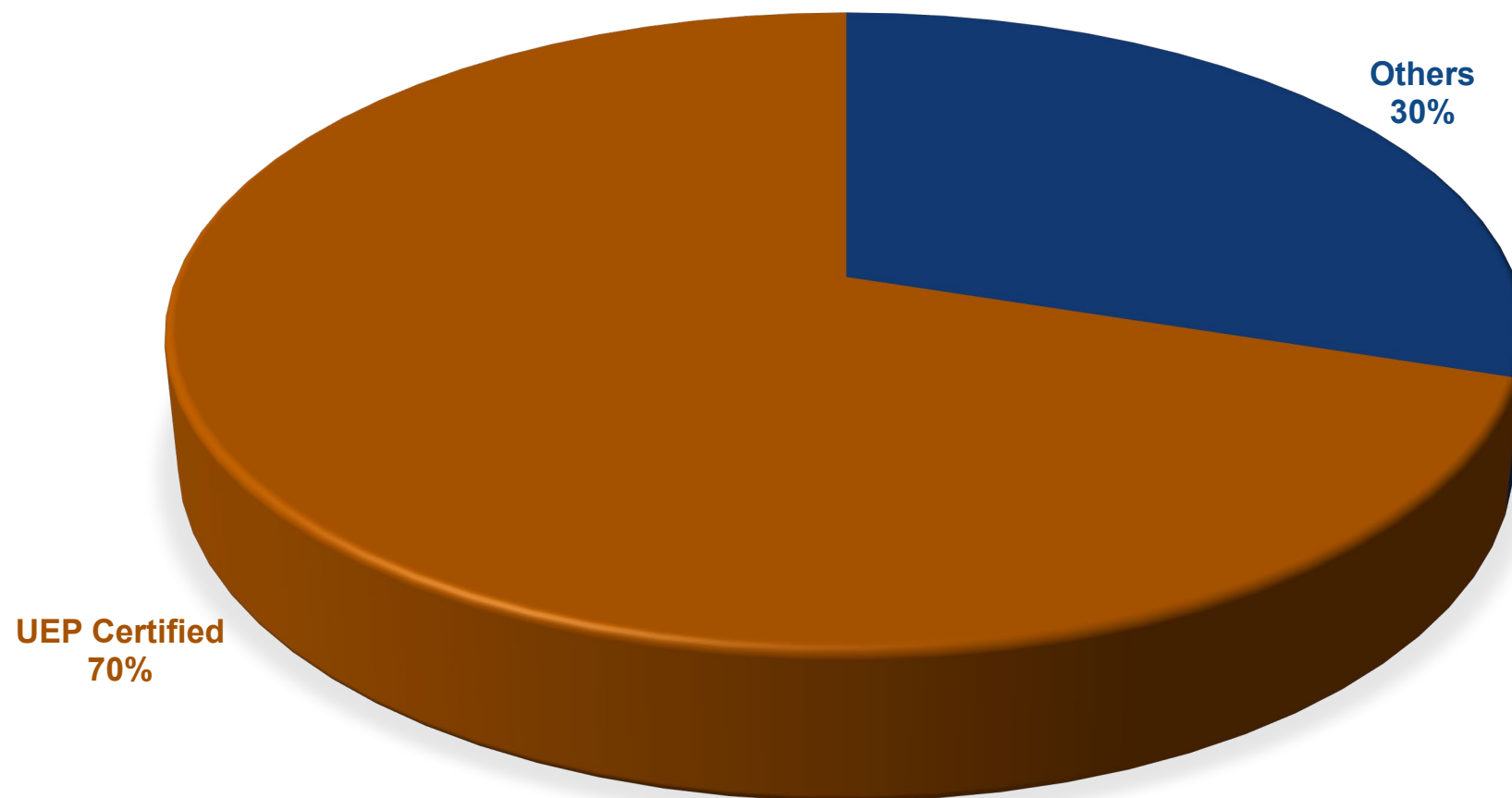


**May 6**  
**167 Million**

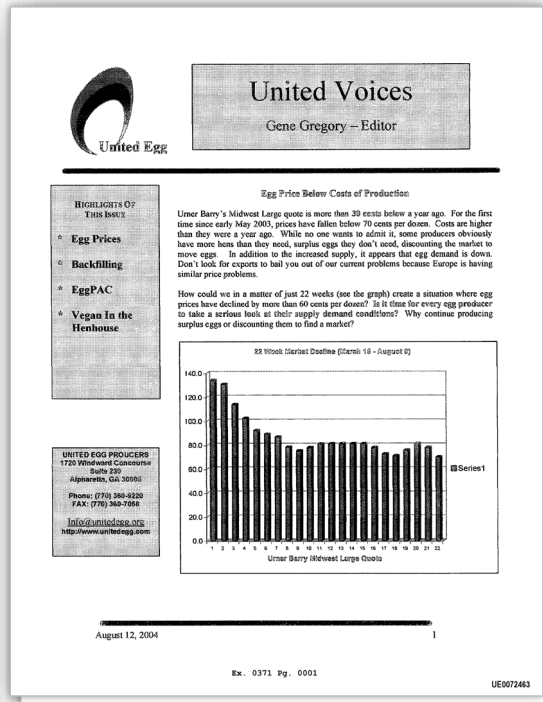


**July 16**  
**190 Million**

# Nation's Flock Size in Certified Program (2002)



# UEP in 2004: Backfilling – a Loophole of a Hangman’s Noose?



Gene Gregory



Al Pope



## Backfilling – A Loophole of a Hangman’s Noose?

Editorial by: Al Pope

Whose program is it anyway, this UEP Animal Care Certified program? It’s not really UEP’s per se, and certainly not UEP’s staff. No, the program belongs to those of you who are participating in the program. You decide how the program operates.





In this regard, the original intent of permitting Animal Care Certified companies to backfill was to accommodate those few extra, unexpected pullets from grow-out facilities. This option would avoid the destruction and waste of what otherwise was a “productive bird”. After hearing your concerns, the Animal Welfare Committee in May 2003 changed the policy to allow for backfilling at any time with any age bird so long as the “house average” space allowance requirement was not exceeded.

A year later, and while the ACC program was never a supply management program, the “backfill” provision (in my opinion) is contributing or even causing some of the disorderly marketing and poor egg prices that we are currently experiencing. Have we shot ourselves in the foot with this well intended provision? Is it a “noose” that is “strangling” the opportunity of enjoying, once again, the favorable prices for our product we expected this fall?

It is your program. Once again, the Area Meetings are approaching and “your voice counts”. It is one person’s opinion but I do think you should eliminate or severely limit any “backfill” provisions and return to the favorable market conditions we enjoyed this past spring.



# Plaintiffs' Purchases

Purchases from Rose Acre and Wabash Valley	
	\$70,803,605
	\$15,088,100
	\$6,577,046
	\$3,948,967

**Total**

**\$96,417,718**

# Total Overcharges



**Kraft**

**\$18,329,288**



**Kellogg's**

**\$4,605,380**



**Nestlé**

**\$1,156,262**



**General  
Mills**

**\$1,305,612**

**TOTAL : \$25,396,542**

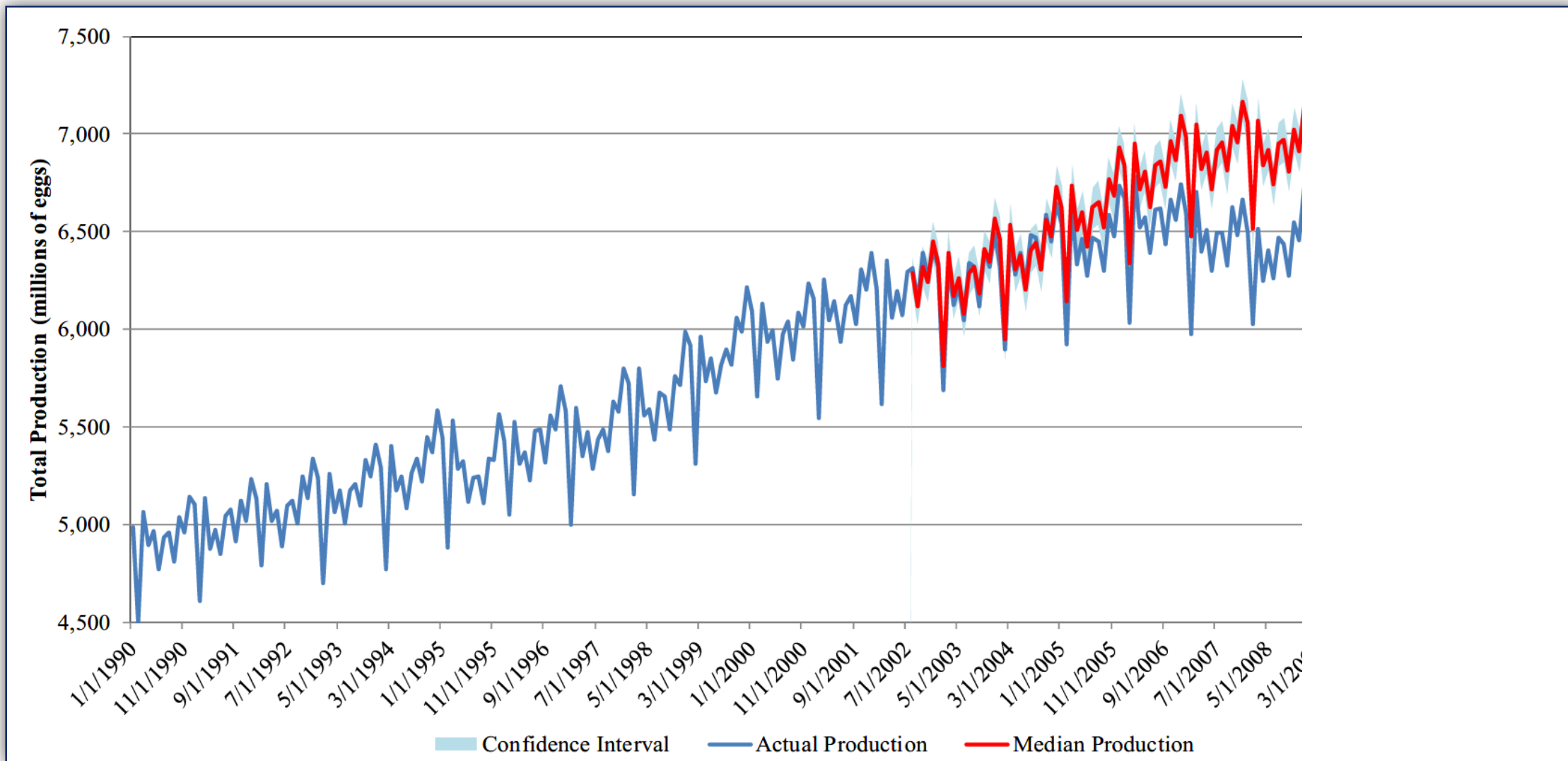
# Dr. Baye's Multi-Step Damages Calculations

- 1 Determine output restriction caused by conspiracy
- 2 Determine impact of output restriction on UB prices
- 3 Determine impact of UB prices on prices paid by Plaintiffs
- 4 Determine overcharge amount

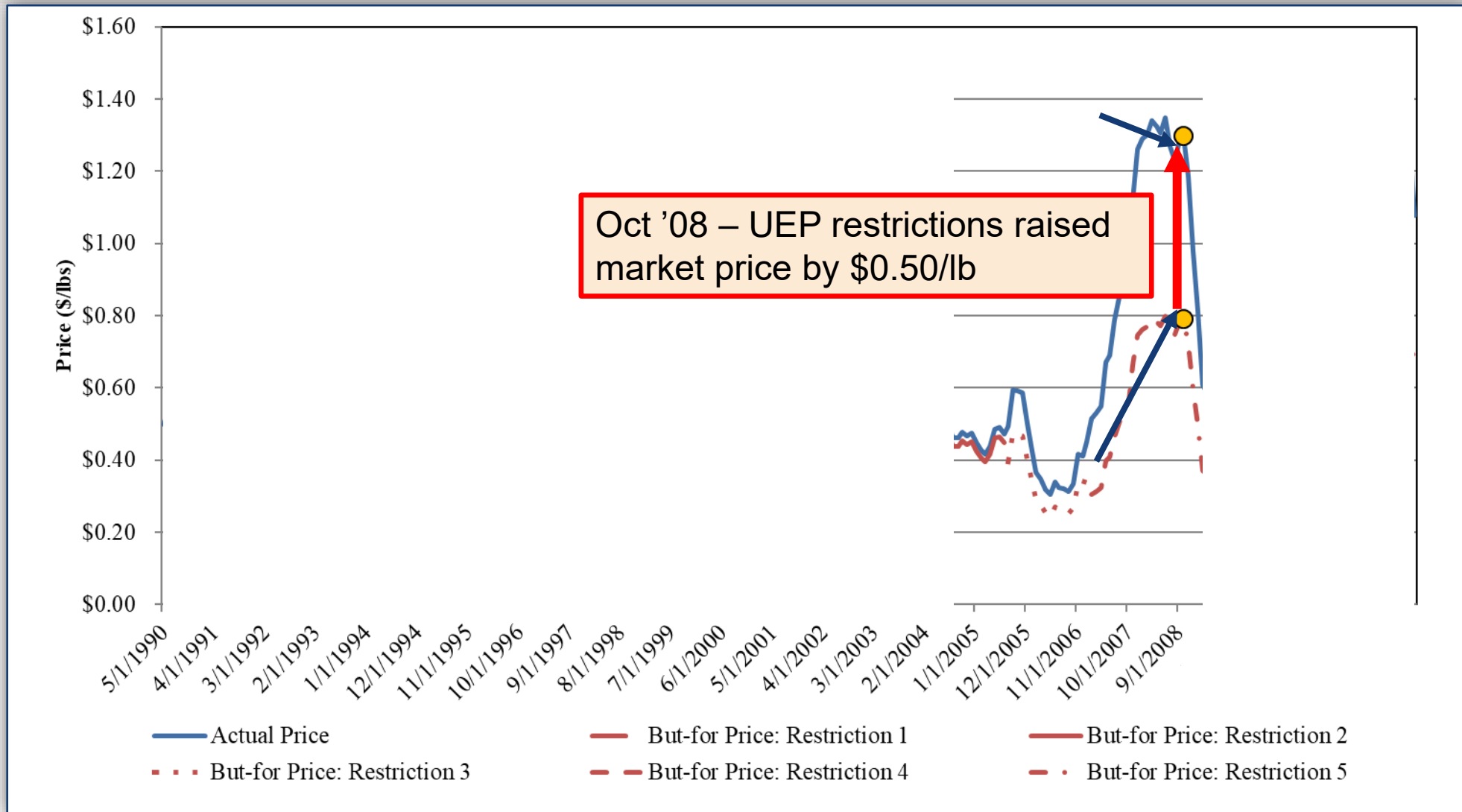




# Output Restriction Caused by Conspiracy



# Impact of Output Restriction on UB prices



# Total Overcharges

**Kraft**

**\$18,329,288**

**Kellogg's**

**\$4,605,380**

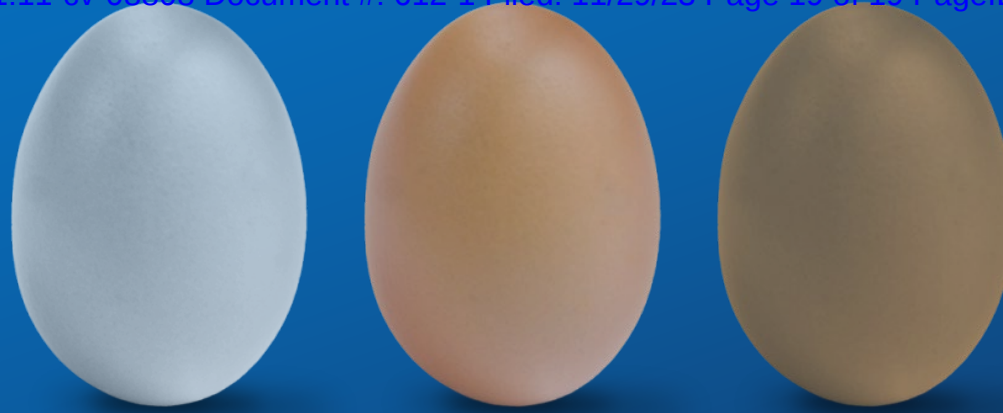
**Nestlé**

**\$1,156,262**

**General Mills**

**\$1,305,612**

**TOTAL : \$25,396,542**



# Kraft Foods Global, Inc. et al. v. United Egg Producers, Inc. et al.

---